

REMARKS

Applicant cancelled claim 226 without prejudice or disclaimer of its subject matter, amended claim 221, and added new claim 258 to further define Applicant's invention. New claim 258 is directed to subject matter deleted from claim 221.

In the Office Action, the Examiner allowed claims 126-130, 207-220, and 236-257, and indicated that claim 235 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, second paragraph, set forth in the Office Action and to include all of the limitations of the base claim and any intervening claims.

The Examiner rejected claim 226 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. Applicant cancelled claim 226 to expedite prosecution of the above-identified application, thus rendering this rejection moot. Applicant reserves the right to pursue the subject matter of claim 226 in a continuation application.

The Examiner objected to the drawings under 37 C.F.R. § 1.83(a) as not showing every feature of the invention specified in the claims. In particular, the Examiner objected to the drawings for not showing the features of claim 226. Applicant submits that this objection is now moot in view of the cancellation of claim 226.

The Examiner rejected claims 221, and 224-233 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,482,233 to Aebi et al. ("Aebi"). Claim 221, as now amended, recites forming a plurality of surface projections, at least two of the surface projections having a forward facet and a rearward facet, "said rearward facet terminating at a first location proximate the base, said rearward facet terminating at a second location proximate said forward facing facet, the first location being closer to the leading end of the implant than the second location."

Aebi teaches an implant 10 having a plurality of spikes 28, the anterior side of each spike being slanted at an angle B which ranges "from about 0 degrees to 30 degrees." (Aebi, col. 4, lines 39-41; Fig. 6). Aebi does not teach or suggest an implant as recited in independent claim 221.

The Examiner rejected claims 222-223 and 234 under 35 U.S.C. § 103(a) as being unpatentable over Aebi. Applicant submits that the rejections over claims 222-223 and 234 are rendered moot at least because they depend from an allowable independent claim, or claims dependent therefrom.


In view of the foregoing remarks, it is respectfully submitted that the claims, as amended, are patentable. Therefore, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1066.

Respectfully submitted,

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Dated: November 16, 2004

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